

FORM
60

North Dakota Small Business Corporation Income Tax Return

1997

Check ☐ **Calendar Year** January 1, 1997, to December 31, 1997
One: ☐ **Fiscal Year** beginning _____, 1997, and ending _____, 1998

Note: If information on label is not correct, please make corrections on the label.	Please Use Mailing Label (if none, type or print)		Federal Employer Identification No.	
	Name ➤		➤	
	Mailing Address ➤		Is this a farming or ranching corporation? ➤ Yes <input type="checkbox"/> No <input type="checkbox"/>	
	City, State, Zip Code ➤		Is this a name change from prior year? If yes, prior name _____	
Date of Incorporation / /	Check If An Extension Is Attached? ➤ Yes <input type="checkbox"/>	Check if Final Return ➤ Yes <input type="checkbox"/>	Business Code (From Federal return) ➤	Check if Amended Return ➤ Yes <input type="checkbox"/>

Income (Loss) From Trade Or Business

1. Shareholders' share of income (loss) (Federal Form 1120S, Schedule K, Lines 1 through 6)		1	
2. Section 179 Expense Deduction (Federal Form 1120S, Schedule K, Line 8)		2	
3. Other Deductions (Enter amount not subject to itemized deductions, Federal Form 1120S, Schedule K, Line 10)		3	
4. Balance (Subtract Lines 2 and 3 from Line 1)		4	
5. Interest on state and local obligations (Excluding North Dakota obligations)	5		Complete Copy Of Federal Return Must Be Attached
6. Other additions (Attach worksheet. See instructions)	6		
7. Total additions (Add Lines 5 and 6)		7	
8. Subtotal (Add Lines 4 and 7)		8	
9. North Dakota domestic dividend exclusion (See instructions)	9		File With State Tax Commissioner State Capitol 600 E. Boulevard Ave. Bismarck, ND 58505-0599
10. Interest on U.S. obligations	10		
11. Allocable income less expenses (Attach worksheet. See instructions)	11		
12. Other subtractions (Attach worksheet. See instructions)	12		
13. Total subtractions (Add Lines 9, 10, 11 and 12)		13	
14. North Dakota apportionable income (Subtract Line 13 from Line 8)		14	
15. Apportionment factor (Sch. B, Line 14. Enter 1.000000 if income only within N.D.) ...	15	— — — — —	
16. Income apportioned to North Dakota (Line 14 multiplied Line 15)		16	
17. North Dakota allocable income less expenses (Attach worksheet. See instructions)		17	
18. North Dakota adjusted income (Add Lines 16 and 17. Distribute to shareholders on Schedule A, Page 2)		18	

Lines 19 Through 31 Are To Be Completed Only By A Subchapter S Corporation

Subject To Federal Income Tax. Please see instructions.

19. Federal excess net passive income (See instructions)	(01)	19	
20. Federal taxable income from certain capital gains (See instructions)	(02)	20	
21. Federal net recognized built-in gains (Federal Form 1120S, Schedule D)	(03)	21	
22. Total income (Add Lines 19, 20 and 21)		22	
23. Federal tax deduction (Federal Form 1120S, Page 1, Line 22c)	(04)	23	
24. North Dakota apportionable income (Subtract Line 23 from Line 22)		24	
25. Apportionment factor (Enter factor from Line 15 above)	(05)	25	— — — — —
26. Income apportioned to North Dakota (Line 24 multiplied by Line 25)		26	
27. North Dakota net operating loss deduction (Attach worksheet from Page 2 of instructions)	(08)	27	
28. North Dakota taxable income (Subtract Line 27 from Line 26)	(09)	28	
29. Net tax liability (See tax rate table below)	(06)	29	
30. Penalty and interest (See instructions)	(07)	30	
31. Payment Due (Add Lines 29 and 30. Enter \$0 if less than \$5. Pay to North Dakota State Tax Commissioner)		31	

I declare under the penalties of North Dakota Century Code § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this return, including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return.

Date	Signature of Officer	Title
Date	Signature of individual or firm preparing this return	Address

Tax Rate Table

If the amount on Line 28 is not over \$3,000	3%
\$ 3,000 to \$ 8,000	\$ 90.00 plus 4.5% of excess over \$ 3,000
\$ 8,000 to \$ 20,000	\$ 315.00 plus 6% of excess over \$ 8,000
\$ 20,000 to \$ 30,000	\$ 1,035.00 plus 7.5% of excess over \$ 20,000
\$ 30,000 to \$ 50,000	\$ 1,785.00 plus 9% of excess over \$ 30,000
Over \$50,000	\$ 3,585.00 plus 10.5% of excess over \$ 50,000

28717

"Buy North Dakota Products"

Please Do
Not Write In
This Space

Schedule A: Distribution Of Income For North Dakota

Shareholder's Name	Mailing Address of Shareholder	% of ownership at year end	Social Security Number	Each Shareholder's Distribution Share
(a)				
(b)				
(c)				
(d)				
(e)				
(f)				
(g)				
(h)				
(i)				
(j)				
Total Add Lines (a) through (j) - Attach schedule if more lines needed. This total amount should equal amount on Line 18 of Page 1.				➔

Schedule B: Apportionment Of Income To North Dakota For All Corporations

Property Factor: Average value at *original cost* of real and tangible personal property used in the business.
(Exclude value of construction in progress)

1. Total	2. North Dakota	3. Factor
(Column 2 divided by Column 1 = Column 3)		

1. Inventories
2. Buildings and other fixed depreciable assets
3. Depletable assets
4. Land
5. Other Assets (Detail)
6. Rental Property (*Annual rental capitalized x 8*)
7. Total Property (Add Lines 1 through 6)

1			
2			
3			
4			
5			
6			
7			— . — — — — —

Payroll Factor:

8. Wages, salaries, commissions and other compensation of employees which were included in the Federal Form 1120S

8			— . — — — — —
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Sales Factor:

9. Gross receipts or sales, less returns and allowances (Federal Form 1120S, Line 1)
10. Sales delivered or shipped to North Dakota destinations.
11. Sales shipped from North Dakota to:
 - (a) The United States Government
 - (b) Purchasers in a state or foreign country where the taxpayer was not subject to a net income tax or a tax measured by net income or, if subject, did not actually pay such tax
12. Total sales (Add Lines 9 - 11)
13. Sum of Factors (Add Lines 7, 8 and 12)
14. Divide line 13 by the number of factors having an amount greater than zero in column 1, on lines 7, 8 and 12

9			
	10		
	11		
	(a)		
	11		
	(b)		
12			— . — — — — —
13			— . — — — — —
14			— . — — — — —

General Instructions

1. Who Must File: Generally, a corporation which does business in North Dakota and elects to file in accordance with subchapter S of the Internal Revenue Code of 1986, as amended, shall file as a Small Business Corporation for North Dakota income tax purposes. However, the federal Subchapter S corporation status is not recognized for North Dakota tax purposes if the corporation meets the definition of a financial institution as outlined in N.D.C.C. ch. 57-35.3. In this case, the corporation must file North Dakota Financial Institution Tax Return, Form 35.

For taxable years beginning after December 31, 1986, income of a subchapter S corporation subject to tax for Federal income tax purposes is also subject to North Dakota income tax at the corporation income tax rates. This change has been reflected on page one of this form. Do **not** file a Form 40 for this purpose.

Every subchapter S corporation must notify all of its shareholders, both residents and nonresidents, that they are required by law to file a North Dakota Individual Income Tax Return (Form 37 or Form 37-S) and report all taxable income earned from North Dakota regardless of whether or not any tax is due.

All items such as capital gains and losses, Section 1231 gains and losses, tax-exempt interest and foreign tax credit which pass through directly to the shareholders from the Small Business Corporation must be reported by the shareholder on the North Dakota Individual Income Tax Return, Form 37 or Form 37-S.

2. Where To File Or Obtain Additional Forms: Completed returns and written requests for information and forms should be mailed to the **Office of State Tax Commissioner, State Capitol, 600 E. Boulevard Ave., Bismarck, ND 58505-0599.**

Forms and instructions may also be obtained by calling 701-328-2046. Obtain North Dakota tax forms, send messages, and find other information on the Office of State Tax Commissioner's home page. The address is: <http://www.state.nd.us/taxdpt>. For the speech and hearing impaired, the local TDD number is (701)328-2778. The in-state toll-free TDD number is 1-800-453-8950.

3. Time For Filing: The return of a small business corporation must be filed on or before the fifteenth day of the fourth month following the close of the taxable year of the small business corporation.

4. Extension Of Time For Filing: An extension of time within which to file a Federal return is automatically accepted by North Dakota as an extension of time to file the State return. The extended due date for the North Dakota return is the same as the extended due date for the Federal return. A copy of the Federal extension Form 7004 must be attached to the State return when it is

filed. If a copy of the Federal extension is not attached, the return will be processed as a delinquent return.

A state extension to file may be obtained, even if a Federal extension has not been requested, provided a written request is made to the Office of State Tax Commissioner prior to the due date of the North Dakota return.

5. How To Pay: If tax due (including penalty and interest) is less than \$5.00, payment need not be made.

6. Information At The Source: Any corporation doing business in North Dakota which is required to file a Federal Form W-2 or 1099 must also file one with this State. For more information on the requirements and alternatives for satisfying those requirements, contact the Office of State Tax Commissioner.

7. Federal Privacy Act of 1974: In compliance with the Federal Privacy Act of 1974, Public Law 93-579, the disclosure of the individual's social security number on this form is mandatory and is required under North Dakota Century Code § 57-38-31(1)(7).

8. Method Of Corporate Taxation: The North Dakota corporation income tax applies only to that portion of the corporation's total net income that is derived from or attributable to sources within this State.

A corporation whose activity is conducted both within and without North Dakota is an apportioning corporation and must compute its North Dakota taxable income by adjusting its Federal taxable income by North Dakota statutory adjustments and apportioning this adjusted taxable income using Schedule B of this return.

9. Federal Audit Changes: Any taxpayer shall report any change or correction of Federal taxable income or income tax liability made by the Commissioner of Internal Revenue or other office of the United States or competent authority, or a renegotiation of any contract or subcontract with the United States. Proper reporting shall be by filing an amended State income tax return, or other information as required by the Tax Commissioner, within ninety days after the final determination.

10. Composite Return: A composite filing method is allowed as an alternative method of filing for nonresident individuals who are shareholders in a partnership operating in North Dakota. Under this method, one individual income tax return, referred to as a "composite return," may be filed by two or more of the shareholders. For more information, contact the Office of State Tax Commissioner.

Important: Complete Copy Of Federal Return Must Be Attached

Specific Instructions

Lines 1 Through 18

Line 3. Enter the amount of other deductions from Federal Form 1120S, Schedule K, Line 10, that is not allowed as an itemized deduction on the shareholder's Federal income tax return. Charitable contributions (Schedule K, Line 7) and deductions related to portfolio income (Schedule K, Line 9) from Federal Form 1120S, are not allowed as deductions on this return.

Line 6. Small Business Corporation income is computed under the Internal Revenue Code as of December 31, 1986, with certain limitations for depreciation and safe harbor leases. Section 168(f)(8) of the Internal Revenue Code of 1986, as amended, was not adopted in North Dakota in those instances where the minimum investment by the lessor is less than one hundred percent (100%). Enter amounts on Line 6, as follows:

- Seller/Lessee: sale proceeds, rent expense, amortization expense, lease acquisition cost.
- Buyer/Lessor: interest expense, depreciation expense, amortization expense, acquisition cost, loss on sale of property.

North Dakota income tax statutes did not allow for the use of ACRS depreciation on assets placed in service between January 1, 1981 and the end of the 1982 taxable year. These assets must be depreciated using methods allowed under the Internal Revenue Code provisions in effect as of December 31, 1980. Federal taxable income must be adjusted for the difference in these two methods. On this line, enter the amount of ACRS depreciation deducted on the Federal return for these assets for the current taxable year.

In computing this adjustment, exclude safe harbor lease assets. Include depreciation on all currently held assets which were placed in service between Janu-

ary 1, 1981 and the end of the 1982 taxable year, **not** just such assets which are located within North Dakota.

Line 9. Dividends received by a corporation are not taxable in North Dakota if the dividends are received from a corporation which has paid North Dakota corporation income tax pursuant to N.D.C.C. ch. 57-38, or from a financial institution which has paid tax pursuant to N.D.C.C. ch. 57-35.3. If the payor corporation is a nonapportioning corporation, i.e. its entire Federal taxable income was subjected to North Dakota taxation, the full amount of the dividends may be subtracted on this line. If the payor corporation is an apportioning corporation, the deduction is computed by multiplying the dividends received by the payor corporation's North Dakota apportionment factor. (Do not include dividends received from the North Dakota Small Investment Company, a North Dakota Limited Partnership.)

Line 11. Income from dividends, interest, rents, royalties, sales or exchanges of property, patents, copyrights, and any other income arising from transactions and activities in the regular course of a corporation's trade or business is generally considered business income and is subject to apportionment. If a corporation has nonbusiness (allocable) income, the corporation must enter the total amount of all allocable income, including income allocated to North Dakota, on this line. A worksheet substantiating the type and amount of income, documentation showing to which State this income was allocated [preferably the State income tax return(s)], and a narrative explaining reasons for allocating each type of income must be attached to Form 60.

Expenses relating to allocable income must be subtracted on this line. The method used to attribute expenses to allocable income must fairly distribute all of the corporation's deductions to various types of income.

Specific Instructions

Line 12. Small Business Corporation income is computed under the Internal Revenue Code as of December 31, 1986, with certain limitations for depreciation and safe harbor leases.

Section 168(f)(8) of the Internal Revenue Code of 1986, as amended, was not adopted in North Dakota in those instances where the minimum investment by the lessor is less than one hundred percent (100%). Enter amounts on Line 12, as follows:

- Seller/Lessee: interest income and depreciation expense [for assets placed in service between January 1, 1981 and the end of the 1982 taxable year, use methods allowed under the Internal Revenue Code as of December 30, 1980; for assets placed in service after the 1982 taxable year use ACRS depreciation].
- Buyer/Lessor: rental income.

On this line, also enter the amount of depreciation computed for the current taxable year on assets placed in service between January 1, 1981 and the end of the 1982 taxable year, using methods allowable as of December 31, 1980. (See instructions for Line 6 for further explanation).

In computing this adjustment, exclude safe harbor lease assets. Include depreciation on all currently held assets which were placed in service between January 1, 1981 and the end of the 1982 taxable year, **not** just such assets which are located within North Dakota.

Line 17. Nonbusiness income is allocated to this State if the income is attributable to North Dakota. Expenses should be attributed to this income in a manner which will fairly distribute all of the corporation's deductions to various types of income. Subtract expenses from nonbusiness income allocated to North Dakota and enter the difference on this line.

Lines 19 Through 31

These lines must be completed only if the income of a subchapter S corporation is subject to tax for Federal income tax purposes. This income is also subject to State income tax at the corporation income tax rates imposed by N.D.C.C. § 57-38-30.

Line 19. Enter amount of Federal excess net passive income upon which Federal tax was computed.

Line 20. From Federal Form 1120S, Schedule D, enter the smallest amount from either Line 17, Line 19 or Line 21.

Line 27. If a corporation has always been a subchapter S corporation, the North Dakota net operating loss deduction does **not** apply. Only a prior subchapter C corporation net operating loss for activities within North Dakota, or activities apportioned to North Dakota, is allowed as a carryforward on the North Dakota Form 60. A subchapter S corporation, which was previously a subchapter C corporation before January 1, 1987, may carry forward its former North Dakota C corporation net operating loss against the after-tax North Dakota apportioned share of the Federal built-in gain. This loss is the amount of the accumulated subchapter C North Dakota net operating loss, less any previously deducted loss carryback or carryforward.

Use the worksheet below to compute the amount to be entered on Line 27. **Attach a copy of this worksheet with the North Dakota Form 60 when filed.**

1. Certain built-in gains (Federal Form 1120S, Schedule D)	1	
2. Federal tax deduction (Federal Form 1120S, Page 1, Line 22c)	2	
3. Balance (Subtract Line 2 from Line 1)	3	
4. North Dakota apportionment factor (North Dakota Form 60, Page 1, Line 15)	4	
5. Limitation on North Dakota net operating loss (Multiply Line 3 by Line 4)	5	
6. N.D. Subchapter C net operating loss (accumulated N.D. net operating loss less any previously deducted loss carryback or carryforward)	6	
7. Enter the Smaller of Line 5 or Line 6 here, and on Page 1, Line 27	7	

Line 30. The Office of State Tax Commissioner will notify the corporation of any penalty or interest owed by a taxpayer and compute the interest on a refund. If desired, penalty and interest owed may be computed by the taxpayer. Enter any penalty and interest on Page 1, Line 30.

Late payments are subject to a penalty of 5% of the tax or \$5.00, whichever is greater. Delinquent returns are subject to a penalty of 5% of the tax or \$5.00, whichever is greater, for the first month the return is delinquent (counting each fraction of a month as an entire month), with an additional 5% for each additional month or fraction thereof during which such delinquency continues, not to exceed 25% in the aggregate.

The current provisions for interest are:

- On refunds, 10% per annum, beginning sixty days after the due date of the return or after the date the return was filed, whichever comes later.
- On extensions to file returns, 12% per annum.
- On additional tax due, 1% per month or fraction of a month, excepting the month in which the tax became due.